

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

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|------------------------------|---|-----------------------------------|
| JENNIFER BALLONI, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. |
| |) | |
| HOLTGRAVE DISTRIBUTING, INC. |) | |
| |) | |
| and |) | |
| |) | |
| TERRELL D. GLASPER, |) | Removed From: |
| |) | |
| Defendants. |) | Circuit Court of St. Louis County |
| |) | Case No. 19SL-CC04075 |

NOTICE OF REMOVAL

PURSUANT TO 28 U.S.C. § § 1332, 1391, 1441, and 1446, Defendants Holtgrave Distributing, Inc. and Terrell D. Glasper (hereinafter “Defendants”), remove this action from the Circuit Court of St. Louis County, Missouri, where it is now pending, to the United States District Court for the Eastern District of Missouri. As grounds for this removal, Defendants state:

GENERAL

1. This case is removable to the United States District Court pursuant to 28 U.S.C. § 1332 because Plaintiff and Defendants are citizens of different states, and, upon information and belief, the amount in controversy exclusive of interest and costs is in excess of Seventy-Five Thousand Dollars (\$75,000.00).
2. The Notice of Removal is timely filed under 28 U.S.C. § 1446.

SERVICE OF THE PETITION AND SUMMONS

3. Plaintiff initiated this action on September 10, 2019, by filing her Petition in the Circuit Court of St. Louis County, Case Number 19SL-CC04075. (Exhibit 1, Plaintiff's Petition)

4. In the Petition, Plaintiff asserts claims for negligence and negligence per se against Defendants arising out of an automobile accident that occurred on November 8, 2018, in St. Louis County, Missouri. (Exhibit 1, Plaintiff's Petition)

5. Defendant Holtgrave Distributing, Inc. was served on September 24, 2019, via service upon its registered agent. (Exhibit 1, Affidavit of Service for Holtgrave Distributing)

6. Defendant Glasper, an employee of Holtgrave Distributing, Inc., was also served on September 24, 2019, at his residence in Belleville, Illinois. (Exhibit 1, Affidavit of Service for Terrell D. Glasper)

7. The documents attached as Exhibit 1 constitute all process pleadings and orders served upon the Defendants in the matter pending in state court.

GROUND FOR REMOVAL

8. 28 U.S.C. § 1441(a) provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

9. 28 U.S.C. § 1332(a) grants original jurisdiction in the United States District Courts for "all civil actions where the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between . . . (1) citizens of different States."

10. This Court has diversity jurisdiction in this matter pursuant to 28 U.S.C. 1332.

BASIS FOR DIVERSITY JURISDICTION

11. This action involves a controversy between citizens of different states in that:
 - a. On information and belief, based upon representations in Plaintiff's Petition in this action, Plaintiff Jennifer Balloni was at the time of the filing of the Petition and is at the time of this Notice of Removal, a citizen and resident of the State of Missouri. (Exhibit 1, Plaintiff's Petition, ¶ 1).
 - b. As alleged in Plaintiff's Petition, Defendant Terrell D. Glasper is a resident of the State of Illinois. (Exhibit 1, Plaintiff's Petition, ¶ 2).
 - c. As alleged in Plaintiff's Petition, Defendant Holtgrave Distributing, Inc. is a corporation foreign to the State of Missouri. (Exhibit 1, Plaintiff's Petition, ¶ 3).
 - d. 28 U.S.C. § 1332(c) provides that "a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business..."
 - e. Upon information obtained from the Illinois Secretary of State, Defendant Holtgrave Distributing, Inc. was incorporated in and remains in good standing in the State of Illinois. (Exhibit 3, Illinois Certification).
 - f. Holtgrave Distributing, Inc. is not incorporated in Missouri and is only incorporated in Illinois. (Exhibit 4, Affidavit of Richard Holtgrave, Sr.).
 - g. Holtgrave Distributing, Inc. has its principal place of business in the State of Illinois. The address of its principal place of business is 654 East State Street, O'Fallon, Illinois. (Exhibit 4, Affidavit of Richard Holtgrave, Sr.).
 - h. For purposes of diversity jurisdiction, Defendant Holtgrave Distributing, Inc. is a citizen of the State of Illinois.
 - i. This action is therefore an action between a citizen of the State of Missouri and two citizens of the State of Illinois.

12. Upon information and belief, the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. Missouri practice does not permit demand for a specific sum in the Petition in a personal injury case. §509.050 R.S.Mo. As alleged in Plaintiff's Petition, Plaintiff is seeking money damages for injury sustained in an automobile accident. Her injuries include "left foot, left ankle, back, neck, head, and other body parts; Plaintiff required treatment and will require treatment in the future; Plaintiff's ability to work, labor and enjoy life has and will be impaired..." (Exhibit 1, Plaintiff's Petition, ¶ 11).

13. This Court has original jurisdiction under 28 U.S.C. § 1332(a)(1) because this is an action between citizens of different states and on information and belief, the amount Plaintiff seeks exceeds \$75,000.00, exclusive of interest and costs.

VENUE

14. Venue lies in the United States District Court for the Eastern District of Missouri pursuant to 28 U.S.C. § 1441(a). Plaintiff's Petition was filed in the Circuit Court of St. Louis County, Missouri. The U.S. District Court for the Eastern District of Missouri encompasses St. Louis County, Missouri.

REMOVAL

15. The requirements for removal under 28 U.S.C. § 1446 have been satisfied.

16. This action is properly removable under 28 U.S.C. § 1441(a) because the U.S. District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

17. Pursuant to 28 U.S.C. § 1446(b)(1), the Defendants file this Notice of Removal within thirty (30) days after service of summons in the state court action.

18. In addition to service of this Notice of Removal, Defendants are also giving written notice to all parties and are filing a copy with the clerk of the state court to effect removal pursuant to 28 U.S.C. § 1446(d). (Exhibit 2, Notice of Filing)

19. Defendants submit this Notice of Removal without waiving any defenses to the claims as asserted by Plaintiff and without conceding in any manner whatsoever that Plaintiff has alleged a claim upon which relief can be granted.

WHEREFORE, Defendants respectfully request that the United States District Court for the Eastern District of Missouri accept jurisdiction of this action, remove this action from the Circuit Court of St. Louis County, Missouri to the United States District Court for the Eastern District of Missouri, and henceforth that this action be placed upon the docket of this Court for further proceedings as if this case had been originally instituted in this Court.

Respectfully submitted.

/s/ Elizabeth H. Weber
JAMES R. HOWARD #57866
ELIZABETH H. WEBER #44122
ROGERS | EHRHARDT – ATTORNEYS AT LAW
Seven Oaks Business Center
302 Campusview Drive, Suite 204
Columbia, Missouri 65201
Telephone: (573) 442-0131
Fax: (573) 442-9423
E-Mail: jhoward@rogersehrhardt.com
E-Mail: lweber@rogersehrhardt.com
Attorney(s) for Defendants Holtgrave Distributing, Inc.
and Terrell D. Glasper

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22nd day of October, 2019, the foregoing was electronically filed with the Clerk of the Circuit Court using the Missouri eFiling system, which electronically sent a copy of the same to all parties of record. The undersigned hereby further certifies that, pursuant to Rule 55.03(a), she signed the original of this document and that the same is maintained by her.

/s/ Elizabeth H. Weber
ROGERS EHRHARDT – ATTORNEYS AT LAW
302 Campusview Drive, Suite 204
Columbia, Missouri 65201